RECENT CASES.

CRIMINAL LAW.

Betting on Election.—Rich v. *State*, 42 S. W. Rep. 291 (Tex.). Defendant proposed to bet $25 on an election and the other party to the bet put up $5, agreeing that they should be forfeited if the remaining $20 were not put up within a specified time. The $5 were forfeited to the defendant. *Held*, that such action did not constitute a betting on an election. "A bet is a wager and the betting is complete when the offer to bet is accepted" (*State* v. *Welch*, 7 Port. 465).

Indictment—Abatement—Presence of Stenographer in Grand Jury Room. —State v. *Bates, et al.*, 48 N. E. Rep. 2 (Ind.). The mere presence of a stenographer at the examination of witnesses before a grand jury, for the purpose of taking evidence on which the indictment is to be founded, furnishes no ground for abating the indictment, unless accused has been prejudiced thereby. The statute (sec. 1724, Burns' Rev. St., 1894) expressly gives the grand jury the right to appoint one of their own number to take down the evidence given before them, and preserve it for use in the prosecution. But there is no statute authorizing any other person to remain in the room and take the evidence in short hand, nor any statute prohibiting it. In the federal courts, which also are subject to no such statute, the presence of a stenographer does not invalidate the indictment (*U. S.* v. *Simmons*, 46 Fed. 65; also, *Courtney* v. *State*, 5 Ind. App. 356, 32 N. E. 335). In *State* v. *Clough*, 49 Me., on p. 576, the court said: "The mere fact that a stenographer was present when an indictment was found would not render it void." But see contra, *State* v. *Bowman*, 38 Atl. 331, a Maine case, reported on page 91, Vol. VII., No. 2, YALE LAW JOURNAL.

Invalidity of Sentence—Omission of Hard Labor—Habeas Corpus—Extent of Relief Granted.—In re Christian, 82 Fed. Rep. 199. Petitioner had been convicted under Section 5392 of the Revised Statutes of the United States, which imposed as a penalty fine and imprisonment at hard labor, and was sentenced to pay a fine and to imprisonment, "hard labor" being omitted from the sentence. Held, that petitioner should be released on habeas corpus, but without prejudice to the right of the United States to have him properly re-sentenced, even though he had partly satisfied the sentence by payment of the fine. In *Harman* v. *U. S.*, 50 Fed. 922, Caldwell, J., said: "It seems probable that if the plaintiff had sought relief from the void sentence, after suffering part of the punishment, by habeas corpus, his discharge would have been absolute and final." See *Ex parte Lange*, 18 Wall. 163; *In re Johnson*, 46 Fed. 477. This dictum seems to be disproved in *In re Bonner*, 154 U. S. 243, 14 Sup. Ct. 323. Other cases are *Medley, Petitioner*, 134 U. S. 175, 10 Sup. Ct. 384; *Savage, Petitioner*, 134 U. S. 176, 10 Sup. Ct. 389; also, *Ex parte Friday*, 43 Fed. 916.

View by Jury—Conversation with Passer-by.—State v. *Perry*, 27 S. E. Rep. 997 (N. C.). *Held*, that although the fact that the jury, without leave of